

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **SEN. VICKI COCCHIARELLA**, on March 30, 2005 at 3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Joe Balyeat (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mike Cooney (D)  
Sen. Jon Ellingson (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** Sen. Carolyn Squires, Chairman (D)

**Members Absent:** Sen. Rick Laible (R)

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 104, 3/9/2005; HB 346, 3/9/2005;  
HB 213, 3/9/2005; HB 109, 3/9/2005;  
HB 587, 3/9/2005  
Executive Action: HB 109; HB 587; HB 104; HB 346; HB  
213

**HEARING ON HB 104**

**Opening Statement by Sponsor:**

**REP. RALPH LENHART (D)**, HD 38, opened the hearing on **HB 104**, Revise laws governing the Teacher's Retirement System.

**Proponents' Testimony:**

**David Senn, Executive Director of the Teachers Retirement System (TRS), Department of Administration**, distributed written testimony that states HB 104 is a housekeeping proposal intended to make general revisions, and to clarify existing administrative and benefit provisions. He said it will bring the statutes into compliance with the IRS plan qualification requirements, as necessary. He stated that this bill will not lessen or detract from benefits currently available to the teachers and administrators participating in the TRS. He did inform the Committee that the only problem with this bill is that it will be going to the IRS before the bill is effective on contingency. He read what the proposed changes will do (see Exhibit 1).

**EXHIBIT**(sts67a01)

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. LEWIS** asked if this proposal will cost any money. **Mr. Senn** replied, no.

**SEN. SHOCKLEY** asked why it wouldn't cost any money. **Mr. Senn** responded that it is only a change in the language. It doesn't change how much they work or earn. He said it will still take \$1 for \$1 if these people are over their limit.

**Closing by Sponsor:**

**REP. LENHART** closed. He said this bill is a fairness issue for TRS, and informed the Committee that it passed out of the House on a 82-15 vote. He asked the Committee to support this bill.

**HEARING ON HB 346**

***{Tape: 1; Side: A; Approx. Time Counter: 15 - 21}***

**Opening Statement by Sponsor:**

**REP. GEORGE GOLIE (D)**, HD 20, opened the hearing on **HB 346**,  
Revise employment restrictions for retired volunteer  
firefighters.

He stated that this bill will allow firefighters that have  
retired to be able to return to work without losing their  
benefits.

**Proponents' Testimony:**

**Melanie Symons**, legal counsel for **PERS**, informed the Committee  
that HB 346 has the same language as SB 197, Volunteer  
Firefighters. She said it needs to be coordinated with SB 197.  
**Ms. Symons** advised they didn't really support SB 197.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:** None.

**Closing by Sponsor:**

**REP. GOLIE** closed by addressing the difference between SB 197 and  
this bill, HB 346. He asked the Committee to support this bill.

**HEARING ON HB 213**

***{Tape: 1; Side: A; Approx. Time Counter: 21 - 26}***

**Opening Statement by Sponsor:**

**REP. DAVE GALLIK (D)**, HD 79, opened the hearing on **HB 213**,  
Generally revise public retirement (PERD) laws under MPERA. He  
informed the Committee that HB 213 is generally a housekeeping  
bill. It allows the board to consider necessary and appropriate  
in the administration of the retirement systems. He said this  
bill passed out of the House on a 90-10 vote.

**Proponents' Testimony:**

**Kelly Jenkins, General Counsel for the Montana Public Employees' Retirement Board**, distributed written testimony, which he read (see Exhibit 2). He also distributed a handout of a table that shows the proposed general revisions of the 2005 Legislation. He addressed each code and their proposed change, with the reason why the changes were made (see Exhibit 3).

**EXHIBIT**(sts67a02)

**EXHIBIT**(sts67a03)

*{Tape: 1; Side: B}*

**Randy Morris, Human Resource Administrator of the Department of Administration**, discussed Sections 11 and 18. He urged the Committee to pass HB 213.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. COCCHIARELLA** asked **Mr. Jenkins** what section is the language in that makes changes for the judges. **Mr. Jenkins** directed her to page 47, section 39. He informed her there was an error in the 2001 Legislative session that cannot be corrected in this fashion. He said changing the terms of the election now could be argued to be an unconstitutional impairment of contract, and the reason why he would like Sections 39, 40 and 42 of this bill deleted.

*{Tape: 1; Side: B; Approx. Time Counter: 10 - 12}*

**SEN. BALYEAT** asked **Mr. Jenkins** about GABA. **Mr. Jenkins** stated that the proposed change is to re-open the window for election of GABA for all those eligible to be elected in 2001. He said it eliminates extraneous unsupported language regarding increased contributions. He read the reason for the change on Exhibit 3, page 4, where the statute wrongly implied that those who chose the GABA would pay increased contributions to the Pension Trust Fund. He said that MPERA was in error on the election form and wrongly indicated that those who chose the GABA would have their benefit calculated on the basis of high average compensation. The legislation allowing the election didn't change the calculation from the final compensation. A new election is necessary to reduce liability exposure. He said that the only way the election can be allowed again with proper information is to re-open the election window for those who were eligible to be elected previously.

Closing by Sponsor: REP. GALLIK closed.

HEARING ON HB 109

*{Tape: 1; Side: B; Approx. Time Counter: 16 - 21}*

Opening Statement by Sponsor:

REP. LARRY JENT (D), HD 64, opened the hearing on HB 109, Transfer capitol complex maintenance from the Department of Fish, Wildlife and Parks to Department of Administration.

Proponents' Testimony:

Marvin Eicholtz,, Administrator of the General Services Division, Department of Administration, stated they support this transfer. There isn't any fiscal impact with this bill, and will continue to be funded as approved by the legislature.

Doug Monger, Administrator of the Parks Division, Department of Fish, Wildlife and Parks, distributed written testimony, which he read. He informed the Committee if HB 109 passes, it will transfer the funding and the employees to the Department of Administration. He urged the Committee to pass HB 109.

EXHIBIT(sts67a04)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

*{Tape: 2; Side: A}*

SEN. BALLYEAT and REP. JENT discussed the Capitol Advisory Council, and the issue of the 10 Commandments located in a public place on the Capitol grounds.

Closing by Sponsor: REP. JENT closed.

EXECUTIVE ACTION ON HB 109

*{Tape: 2; Side: A; Approx. Time Counter: 3 - 5}*

**Motion/Vote:** SEN. TROPILA moved that HB 109 BE CONCURRED IN. Motion carried unanimously by voice vote. CHAIRWOMAN CAROLYN SQUIRES voted aye by proxy.

**HEARING ON HB 587**

*{Tape: 2; Side: A; Approx. Time Counter: 5 - 7}*

**Opening Statement by Sponsor:**

REP. BOB BERGREN (D), HD 33, opened the hearing on HB 587, Require certain retirement benefits for a minor to be paid to a trust. He said when highway patrol, firefighters, and police officers get a divorce, they were left out of current code to name their child as beneficiary. Current code states that if these three groups wanted to make their child a beneficiary, they would have to name the parent that has custody of that child, and not be able to place that child's name on the beneficiary form.

**Proponents' Testimony:**

Melanie, Symons, Legal Counsel for Department of Administration, states this bill statutorily places the three groups into statute. She urged the Committee to pass HB 587.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:** None.

**Closing by Sponsor:**

REP. BERGREN closed. He wanted the bill to allow as "designated", but had to leave the word "statutorily" in.

**EXECUTIVE ACTION ON HB 587**

*{Tape: 2; Side: A; Approx. Time Counter: 9 - 10}*

**Motion/Vote:** SEN. LEWIS moved that HB 587 BE CONCURRED IN. Motion carried unanimously by voice vote with CHAIRWOMAN SQUIRES voting by proxy.

EXECUTIVE ACTION ON HB 104

*{Tape: 2; Side: A; Approx. Time Counter: 10 - 11}*

Motion/Vote: SEN. SHOCKLEY moved that HB 104 BE CONCURRED IN.  
Motion carried unanimously by voice vote. CHAIRWOMAN SQUIRES  
voted aye by proxy.

EXECUTIVE ACTION ON HB 346

*{Tape: 2; Side: A; Approx. Time Counter: 11 - 14}*

Motion/Vote: SEN. SHOCKLEY moved that HB 346 BE CONCURRED IN.  
Motion carried unanimously by voice vote. CHAIRWOMAN SQUIRES  
voted aye by proxy.

EXECUTIVE ACTION ON HB 213

*{Tape: 2; Side: A; Approx. Time Counter: 14 - 16}*

Motion/Vote: SEN. BALLYEAT moved that HB 213 BE CONCURRED IN.  
Motion carried unanimously by voice vote. CHAIRWOMAN SQUIRES  
voted aye by proxy.

**ADJOURNMENT**

Adjournment: 5:00 P.M.

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SEN. CAROLYN SQUIRES, Chairman

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CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

**EXHIBIT ([sts67aad0.TIF](#))**